

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

ESPOSITO SECURITIES, LLC,

Plaintiff,

v.

ADVISORSHARES INVESTMENTS, LLC,

Defendant.

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Civil Action No. 3:12-CV-04926-N

**PLAINTIFF ESPOSITO SECURITIES, LLC'S
RESPONSE TO DEFENDANT'S MOTION TO DISMISS
THE ORIGINAL PETITION OF PLAINTIFF ESPOSITO SECURITIES, LLC**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Plaintiff Esposito Securities, LLC ("Plaintiff") and files this Plaintiff Esposito Securities, LLC's Response to Defendant AdvisorShares Investments, LLC's ("Defendant") Motion to Dismiss the Original Petition of Plaintiff Esposito Securities, LLC and would respectfully show the following:

PLEASE TAKE NOTICE THAT, while Plaintiff's Original Petition provides fair notice of the claims asserted and the facts therein show a plausible claim for relief, Plaintiff has properly and timely filed an amended petition in the above-styled case in accordance with the agreements of the parties and Federal Rules of Procedure 15(a)(1)(B). Therefore, Defendant's pending motion to dismiss is moot as Plaintiff's Amended Petition is the applicable petition before this Court.

Dated: February 22, 2013

Respectfully submitted,

By: /s/ Court D. Smith

Court D. Smith

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COUNSEL FOR PLAINTIFF

ESPOSITO SECURITIES, LLC

CERTIFICATE OF SERVICE

I hereby certify a true and correct copy of the foregoing document has been served upon all counsel of record via electronic filing on this 22nd day of February, 2013.

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/s/ Court D. Smith

Court D. Smith